IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 36388 of 1998

Between:

A.S.Narayana, S/o.Narayana Goud,
Occ: Driver, E.64904, R/o.4-100,

Near Durga Temple, Narsapur,

Medak District.

..... PETITIONER

AND

1. The Management, APSRTC,

Musheerabad, Hyderabad,
(rep.by its Managing Director)

2. The Depot Manager, APSRTC,

Bus Depot, Narayankhed,
Medak District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the 2nd respondent in respect of the impugned proceedings No.01/227(4)/95-NKD, Dt.26/03/1996 and issue appropriate writ or direction particularly one in the nature of writ of Certiorari and quash the same as arbitrary, unjust, in violation of Articles14,16 & 21 of the Constitution of India and consequently direct the respondent Corporation to restore the increments along with

the consequential benefits and payment of full wages during the suspension period i.e., 18/11/95 to 26/03/1996.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (SC) FOR APSRTC)

The Court made the following:

ORDER:

This writ petition is filed seeking writ of Certiorari to quash the proceedings No.01/227(4)/95-NKD, dated 26-3-1996 of the 2nd respondent, as arbitrary and illegal and consequently direct the respondents-corporation to restore increments along with the consequential benefits and payment of full wages for the period of suspension i.e., from 18-11-1995 to 26-03-1996.

2. It is the case of the petitioner that he joined services of A.P.S.R.T.C as a driver with effect from 19-08-1975. While so, he was suspended from duty on 18-11-1995 and a charge sheet was issued enumerating the following charges.

" 1. For having refused to perform the charted duty of 5-30 hours Regode-CBS Service on 18-11-1995 which as resulted in cancellation of service and loss of earning to the Corporation which constitutes misconduct under Regulation 28 (VIII) of APSRTC Employees Conduct Reg., 1963.

2. For having caused loss of earning approximately to a tune of Rs.3,000/- due to refused to perform the 5-30 hours Regode-CBS service which constitute misconduct in terms of Reg.28 (IX)(a) of APSRTC Employees (Conduct) Regulations, 1963."

The petitioner submitted his explanation stating that he was not in a position to attend his duties due to illness and he had intimated the same by phone and submitted sick certificate at 10-00 hours on 18.11.1995 itself. Therefore, the charges levelled against him are not correct. However, farce of an enquiry was conducted and during the course of enquiry, the Enquiry Officer denied reasonable opportunity

to the petitioner and did not serve the list of documents and list of witnesses to be examined in support of the charges. However, the witnesses examined in the enquiry did not speak anything against the petitioner. But the Enquiry Officer found the petitioner guilty of the charges and submitted his report. On the basis of the Enquiry Officer's report, the Disciplinary Authority issued a show cause notice proposing to impose a punishment of removal from service. However, when the matter was placed before the Deputy Traffic Manager, Medak at Sangareddy, he advised the Disciplinary Authority to impose a lesser punishment and therefore, the petitioner was imposed with a punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect. Aggrieved by the same, the present writ petition has been filed.

3. A detailed counter affidavit has been filed by the respondents-corporation denying the allegations made by the petitioner and asserting that the punishment of reduction by two incremental stages with cumulative effect is just and proper in the circumstances of the case.

4. I have given my earnest consideration to the respective submissions of the learned counsel on either side and perused the material made available on record.

5. I am of the considered opinion that the punishment of reduction by two incremental stages with cumulative effect, for a trivial misconduct of not reporting for duty on a single day i.e., 18.11.1995 at 5-30 hours, though the petitioner submitted a sick certificate at 10-00 hours on the very same day, is not in tune with the charge levelled against the petitioner. The punishment imposed is disproportionate to that of misconduct and requires interference of this Court. The punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect would have been sufficient for a case of this nature. Though the order passed by the respondents is upheld, but the same is quashed to the extent of imposing the punishment without cumulative effect.

6. In the result, the petitioner shall suffer the punishment imposed under the

impugned proceedings dated 26-03-1996 i.e., reduction of pay by two incremental stages for a period of two years, but without cumulative effect. The writ petition is allowed to the extent indicated above. No costs.

_____

C.V.RAMULU,J.

Date: 24th June 2005.

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, APSRTC,

Musheerabad, Hyderabad,

2. The Depot Manager, APSRTC,

Bus Depot, Narayankhed,
Medak District.

3. Two CD copies

*Form-NIC-OGS/WP{**LOBIS**}*